

Step 1: Withdraw 2015 Clean Water Rule

While the Sixth Circuit stay may remain in effect for some time, its duration is uncertain.

To provide greater certainty, the agencies will move to reinstate the preexisting regulations and guidance and to withdraw the 2015 Rule.

In the Step 1 proposed rule, the agencies will define “waters of the United States” using the regulatory definition in place before the Clean Water Rule, which the agencies will continue to implement according to longstanding practice, just as they are today.

The Step 1 proposed rule would maintain the approach in place for decades until a revised rule with a new definition can be promulgated.

Step 2: Develop New Rule Consistent with the Executive Order

The E.O. directs the agencies to consider interpreting the term “navigable waters,” as defined in 33 U.S.C. 1362(7), in a manner consistent with the opinion of Justice Antonin Scalia in *Rapanos v. United States*, 547 U.S. 715 (2006).

Justice Scalia’s opinion indicates Clean Water Act jurisdiction includes relatively permanent waters and wetlands with a continuous surface connection to relatively permanent waters.

The agencies are consulting with state and local government officials as we begin to develop the new definition.

Potential Approaches to “Relatively Permanent” Waters

Perennial plus
streams with
“seasonal” flow

Current practice:
seasonal flow =
about 3 months
(varies
regionally)

Perennial plus
streams with another
measure of flow

Use appropriate,
implementable
metrics, e.g.,
frequency of flow,
intersecting water
table

Perennial streams
only

Streams
that carry flow
throughout the
year except in
extreme drought

Other

Thoughts?

Potential Approaches to Wetlands with a “Continuous Surface Connection”

Surface connection
even through non-
jurisdictional feature

Current practice
considers directly
abutting wetlands
and those with a
continuous surface
connection,
regardless of
distance, to be
jurisdictional

Some degree of
connectivity

Use appropriate,
implementable
metrics, e.g.,
distance

Wetland must
directly touch
jurisdictional waters

Only wetlands that
directly touch a
jurisdictional water

Other

Thoughts?

Discussion:

The change in jurisdictional waters will vary across states and localities and with the options suggested above. Given that:

1. How would you like to see the concepts of “relatively permanent” and “continuous surface connection” defined and implemented? How would you like to see the agencies interpret “consistent with” Scalia? Are there particular features or implications of any such approaches that the agencies should be mindful of in developing the step 2 proposed rule?
2. What opportunities and challenges exist for your state or locality with taking a Scalia approach?
3. Do you anticipate any changes to the scope of your state or local programs (e.g., regulations, statutes or emergency response scope) regarding CWA jurisdiction? In addition, how would a Scalia approach potentially affect the implementation of state programs under the CWA (e.g., 303, 311, 401, 402 and 404)? If so, what types of actions do you anticipate would be needed?
4. The agencies’ economic analysis for step 2 intends to review programs under CWA 303, 311, 401, 402 and 404. Are there any other programs specific to your region, state or locality that could be affected but would not be captured in such an economic analysis?

Next Steps

Do you have any additional information that the EPA should be aware of?

- If so, please provide.

Do you have any other approaches that you would like the agencies to consider?

Comments will be due to the EPA in approximately 8 weeks, June 19, 2017.

Please send written comments to: CWAwotus@epa.gov and copy Hanson.Andrew@epa.gov

Contacts

Project Lead:

Donna Downing

- (202) 566–2428
- CWAwotus@epa.gov

Federalism Contact:

Andrew Hanson

- (202) 564-3664
- Hanson.Andrew@epa.gov

EPA'S LOCAL GOVERNMENT ADVISORY COMMITTEE (LGAC)

Thursday, June 29 2017

2:00 p.m.-3:00 p.m. EST Teleconference

Call in: Nonresponsive Conference Code/ Ex. 6

Meeting Agenda

2:00 pm-2:05 pm

Call to Order/Introductions

Chairman, Mayor Bob Dixon

Vice-Chairwoman, Councilor Jill Duson

2:05pm- 2:15pm

EPA Remarks

Troy Lyons, Associate Administrator

Office of Congressional and Intergovernmental Relations

Intergovernmental Relations

The Honorable Scott Pruitt (Invited)

EPA Administrator

2:15pm-2:30pm

Public Comments

2:30pm-2:55 pm

Workgroup Actions-Report-Out

Small Community Advisory Subcommittee (SCAS)

Commissioner Robert Cope, Chair

Mayor Johnny Dupree, Vice-Chair

ACTION: Report Out

Protecting America's Waters Workgroup

Susan Hann, Chairwoman

Mayor Elizabeth Kautz, Vice-Chair

ACTION: Discussion and Vote:

1) Draft LGAC Waters of the United States (WOTUS) Report

2) Draft Transmittal Letter for WOTUS

EPA'S LOCAL GOVERNMENT ADVISORY COMMITTEE (LGAC)

Environmental Justice (EJ) Workgroup

Dr. Hector Gonzalez, Chair

ACTION: Report Out

Air, Climate and Energy Workgroup

Commissioner Robert Cope, Acting Chair

ACTION: Report Out

Cleaning Up Our Communities Workgroup

Councilor Jill Duson, Chairwoman

Mayor Karen Freeman-Wilson, Vice-Chairwoman

ACTION: Report Out

2:55pm-3:00 pm

LGAC Concluding Remarks

Mayor Bob Dixon, Chair of LGAC

Robin Richardson

Principal Deputy Associate Administrator

3:00pm

Adjournment

Mayor Bob Dixon, Chair of LGAC

2017

EPA's Local Government Advisory Committee (LGAC)

**MEETING SUMMARY
FRIDAY, JANUARY 13, 2017
TELECONFERENCE**

EARGLE, FRANCES

EPA's Local Government Advisory Committee (LGAC)

**Friday, January 13, 2017
12:30 p.m.-1:30 p.m. (ET) WJC North 3528 TELECONFERENCE**

MEETING SUMMARY

I. Call to Order/Introductions

Chairman Bob Dixon called the meeting to order and began introductions. He welcomed everyone to the public meeting of EPA's Local Government Advisory Committee. He stated the purpose of the meeting was to hear and take action on two business items: 1) LGAC Biannual Report 2015-2016 and the 2) Ozone Letter.

He stated for the record that the LGAC is a chartered committee of state, local and tribal elected and appointed officials representing communities from coast to coast-large, small, urban and rural communities.

The LGAC operates in accordance with the Federal Advisory Committee Act, and therefore conduct meetings open to the public. Members of the public are invited to speak and address the committee during the time designated on the agenda to speak.

He indicated that Administrator Gina McCarthy would join the meeting to give a farewell address to the Committee.

Chairman Dixon recognized Vice-chairwoman Councilor Jill Duson for opening remarks. Vice-chairwoman Jill Duson also welcomed everyone to the meeting.

II. Remarks of the EPA Administrator

Mark Rupp, Deputy Associate Administrator gave opening remarks and introduced the Administrator. Administrator Gina McCarthy began by thanking the Chairman and Vice-chairwoman, and the Committee for inviting her to speak.

She thanked LGAC Members for their hard work on behalf of the EPA. She said that she had been "obnoxiously demanding of the LGAC" and that was because their advice was so good and so needed.

She thanked Mayor Dixon for his leadership as well as Vice-Chairwoman Councilor Jill Duson. She said that the most important issues the LGAC takes on is to review what we ask of the states and whether we ask of them can work. Administrator McCarthy reflected on the LGAC's

EPA's Local Government Advisory Committee (LGAC)

work on the Clean Water rule, Clean Power Plan and Drinking Water. She said that the work on environmental justice (EJ) was also helpful. She said the LGAC's advice always helped her to gain a greater understanding of what needs to be done. She also commented on the great work on the Drinking Water Plan and the short turnaround.

She thanked LGAC Members for hosting her in their communities. She thanked Mayor Elizabeth Kautz for the tour of Burnsville, Minnesota. She was pleased to say goodbye to the last coal train there. She thanked Kevin Shafer for the water infrastructure tour of their work in Milwaukee. She thanked Mayor DuPree for his visits on many occasions to raise the awareness and challenges of marginalized communities, health disparities and water infrastructure. She said that the Drinking Water Plan clearly outlines the need to act with equity to address these issues.

She stated that she was grateful for the time spent with Mayor Marilyn Murrell in her town of Arcadia, Oklahoma. She said that she met most of her family members and she said that "if you understand community this is what it is all about." She said that it is why the work is so important and also important "in our work together." She concluded by saying that the work with the LGAC was "a huge part of my most memorable moments."

Chairman Dixon thanked the Administrator. **Vice-Chairwoman Duson** also thanked her for her leadership and her commitment to open engagement. She also thanked her for promoting regional leadership with the EPA Regional offices. She also stated that the LGAC can see our fingerprints at work.

Mayor Elizabeth Kautz also thanked the Administrator for her openness, transparency and responsiveness. She appreciated the travel to hear from local leaders. And she also appreciated the affirmative leadership to make sure that "we are cleaning up the environment." She also said that she was going to miss her style of leadership that speaks from the heart and works cooperatively to solve problems.

Commissioner Victoria Reinhardt commented that "what the Administrator had done did indeed make a difference." **Mayor Dawn Zimmer** also thanked the Administrator for EPA's work to help her city of Hoboken, New Jersey which was hard hit by Hurricane Sandy. She said that there was a huge flood event and EPA had helped with a long-term plan flood control plans. She said that "EPA's presence was making a difference at the local level."

Mayor Mark Stodola also thanked her for EPA's work to support the city of Little Rock's sustainability work and economic redevelopment. Administrator McCarthy said that one of the reasons that she enjoyed her work so much was to witness the work at the state and local level. She said that "you know things happen not only because of regulations but also because we care and our partnerships are meaningful." EPA will continue to work together on strong

EPA's Local Government Advisory Committee (LGAC)

partnerships. She said that "the agency has strong and good people." The public cares about clean water and clean air. She said that the work that has been done will continue. She thanked the LGAC for "letting me part of your life." She also thanked Mark Rupp for the great job he had done to make use of the LGAC's advice and recommendations, and their time as LGAC Members.

III. Public Comments

Chairman Dixson announced the time for public comments. He invited members of the public to speak. [No members of the public came forward to speak].

IV. LGAC Business Actions and Workgroup Report-Outs

1. Draft LGAC Biannual Report-2015-2016

Chairman Dixson opened the business portion of the meeting by recognizing that there was a quorum present. He said the first order of business was to review the Draft LGAC Biannual Report. The Report was presented on behalf of the Executive Committee, which presented the Report which is a compilation of the LGAC's work for the last two years (2015-2016).

The Report summarizes and highlights the many charge issues, and highlights the over 300 individual findings and recommendations of the Committee. It also includes a summary of the Drinking Water Report. The Report also highlights where agency action was taken on our some of the LGAC recommendations. **Chairman Dixson** stated that the Small Community Advisory Subcommittee (SCAS) and all of the Workgroups have reviewed the Report and provided input.

Chairman Dixson thanked the EPA staff and interns for helping on the Report. He said that the Report is a culmination of the very active work of the LGAC over the last two years.

He opened it up for discussion. **Sue Hann** made a motion to accept the Report, it was seconded by **Representative Jeff Morris**. All were in favor of the motion, said 'aye'.

Chairman Dixson thanked all of the Members of the LGAC. He said that everyone contributed to the Report and the LGAC work highlighted in the Report.

Chairman Dixson indicated that he would transmit the Report electronically by email to the Administrator. He said that a transmittal to the new Administrator was being worked on by the

EPA's Local Government Advisory Committee (LGAC)

Executive Committee and that in the appropriate time that the LGAC would be called in another meeting to discuss a letter to the incoming Administrator.

2. Small Community Advisory Subcommittee (SCAS)

Commissioner Bob Cope reported out on the SCAS meeting held just prior to the LGAC meeting. He said the SCAS discussed and approved the Biannual Report. He also said that the SCAS had given input on the Report. The SCAS also discussed the ozone letter and had given input to that letter as well.

He reported that Ron Carlton, EPA's Agricultural Advisor, gave farewell remarks to the SCAS. Commissioner Cope recognized Mayor DuPree, Vice-chairman of the SCAS to give any remarks. Mayor DuPree said that he appreciated all of the work of the SCAS and the LGAC.

3. Air, Climate and Energy (ACE) Workgroup

Commissioner Carolyn Peterson presented the ACE's *Draft Ozone Standard Letter* to the LGAC. She said that the letter provided in the meeting attachments with the redline additions contained input which was added to the letter. This language had been approved by the workgroup and the Executive Committee. The redline additions were introduced by the Environmental Justice Workgroup to address cross-boundary ozone issues.

She also said that all of the workgroups have looked at the letter. It also addresses truck traffic at railroad crossings. It favors option 1 on how communities adjust to, new additions and unique local and regional situations.

Commissioner Peterson made a motion to approve the letter. **Sue Hann** seconded the motion. Motion carried. **Commissioner Carolyn Peterson** thanked everyone. And Chairman Dixon thanked Carolyn Peterson and the work of the ACE on the letter.

4. Protecting America's Waters Workgroup (PAWW)

Sue Hann, Chairwoman of the PAWW, reported out for the Workgroup. She said that Eric Burneson addressed the Workgroup at their December meeting to thank the LGAC for their work and to give a report out on the status of implementation of the National Drinking Water Action Plan. She also said that the Workgroup had a briefing on asset management planning which is a key feature of managing water infrastructure.

EPA's Local Government Advisory Committee (LGAC)

Sue Hann also reported out to the LGAC that she had just participated in a Water Infrastructure Leadership Conference held in Washington, D.C. on January 11-12th. She said that it specifically addressed issues of water infrastructure needs of communities in need and in rural areas.

Generally, smaller communities are in greater need of resources. And it is more difficult to reach out to smaller communities. There were four (4) topics discussed at the conference: state level coordination; funding sources that make projects work; capacity building and alternative funding sources.

There were really looking for examples of local strategies where local governments have put together innovative funding resources to make their projects work. There was a sense that not a lot of funding packages were replicable. Everyone seems to have unique projects and there was not a 'one size fits all for funding'. There was a sense that a clearinghouse is needed. The biggest theme was capacity building.

Alternative funding and financing are often not available for communities in need. There is a real need to connect communities with accessible resources. There is expected to be a report out in early spring of the conference proceedings. Sue Hann will send a link to Fran Eargle to send out when it is available.

Mayor Elizabeth Kautz, Vice-chairwoman, PAWW, thanked everyone for the great progress of the workgroup over the year. She thanked Susan Hann for her leadership as chairwoman. And she thanked Chairman Dixon for his leadership of the LGAC.

5. Environmental Justice (EJ) Workgroup

Mr. Gonzalez, City of Laredo staff, reported out for Dr. Hector Gonzalez, Chair of the EJ Workgroup. Mr. Gonzalez thanked everyone on the Committee for their tremendous work.

6. Cleaning Up Our Communities Workgroup

Councilor Jill Duson, Chairwoman of CUOC, thanked the Workgroup for their work to support the LGAC. Councilor Duson said that they are working with the Office of Land and Emergency Management on the brownfields program. There are various elements of the brownfields program of interest to Members and to local governments. The CUOC is also continuing to work with the Water Workgroup on drinking water issues and how to protect source water from contamination. The CUOC will also be investigating new topics to bring to the forefront.

EPA's Local Government Advisory Committee (LGAC)

The Chairwoman also congratulated the Vice-chairwoman, Mayor Karen Freeman-Wilson for her segment on *Undercover Boss*.¹ It was a great opportunity to see what her great city does, and the importance of the work of municipalities on an everyday basis.

Chairman Dixon thanked Councilor Duson and Mayor Karen Freeman Wilson for their leadership.

V. Concluding Remarks

Chairman Dixon said that there was one order of business left for the Committee which is to approve the October 7th Meeting Summary.

Ms. Susan Hann made a motion to accept the Meeting Summary, and Mayor Kautz seconded the motion. Motion carried.

Chairman Dixon recognized Robin Richardson for concluding remarks.

*Robin Richardson
Principal Deputy Associate Administrator*

Robin Richardson thanked Chairman Dixon for another great meeting, and his great leadership as chairman. She also thanked the Committee for their work. She said that she had now served in the Office of Congressional and Intergovernmental Relations for 4 months. She said that this is the second opportunity to meet with the LGAC and see their work in action. She also commended the LGAC for their work on the Drinking Water Report, and how well done that was. She also said that she looked forward to reading the LGAC Biannual Report.

She thanked those on the LGAC who will be departing their service soon for their many efforts. She thanked Mark Rupp as well. She said that she and the staff are here to help. She urged the Committee to continue their great work. And she said that as the Transition Team comes in that she and the office are gearing up to welcome the new Team who will arrive on Friday.

She concluded her remarks with another thank you for the LGAC's hard work and helping the EPA. She also said that she is looking forward to meeting everyone early summer for a possible face to face meeting.

Chairman Dixon acknowledged Mark Rupp's contributions and asked him to give concluding remarks. Mark Rupp began by saying how difficult it is in wrapping up the great work. He said that the work with the LGAC was a high point of the job. He said that the LGAC is an incredible

¹ http://www.cbs.com/shows/undercover_boss/video/O_IR37rmKeeE26CQNXC3q6Y4avbUF2Yg/undercover-boss-mayor-of-gary-indiana/

EPA's Local Government Advisory Committee (LGAC)

team. He stated that the work of the LGAC helped the Administrator greatly by the virtue of their advice made EPA's policies work better. He said that he also appreciated the work of the LGAC in going across the country and meeting with elected officials across the country on the Clean Water Rule and the Report that was done to help EPA on the final rule.

He also thanked outgoing LGAC Members: **Jeff Tiberi, Representative Morris and Carolyn Peterson** for all of their contributions.

He also thanked Chairman Dixon for all of his contributions.

Mayor Elizabeth Kautz acknowledged Mark Rupp's contributions. She said that she will miss his presence. She thanked him for all of the support to the LGAC and to local governments.

Commissioner Reinhardt echoed remarks of Mayor Kautz.

Chairman Dixon also wished everyone well. He said that everyone should be very proud of what we have accomplished together.

Commissioner Carolyn Peterson said that she has enjoyed serving on the Committee and the journey we have made together. She said that she remembers the first inquiry to her office whether I would be interested to serve in October 2010. She said that the LGAC has worked together so well, and with the EPA staff. She also reminded the Committee that there would be a vacancy for the chair of the ACE Workgroup. **Chairman Dixon** said that he really appreciated all of Carolyn Peterson's contributions especially in her help to perfect the work products of the Committee.

Chairman Dixon also thanked **Jeff Tiberi** for his contributions and for really giving the LGAC the great perspective on the ground on agriculture and especially in regard to water and agriculture.

Chairman Dixon thanked Representative Jeff Morris for sharing his perspective of state representatives and state issues and said how important that was to the LGAC's work.

Representative Jeff Morris shared that he is currently in his 21st year in serving the State of Washington as a state representative. When he came onboard the LGAC this was the first experience in working so closely with local governments. He said that it has really been a unique opportunity. And he also said that he carried this relationship with him in his work every day. Representative Morris also thanked Mayor Dixon for his leadership of the Committee and complimented his facilitation skills and getting the best from everyone.

EPA's Local Government Advisory Committee (LGAC)

12:30pm

Adjournment

Mayor Bob Dixon, Chair of LGAC

Mayor Dixon adjourned the meeting at 1:31 pm ET.

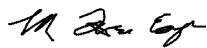
We hereby certify that, to the best of our knowledge, the foregoing minutes are accurate and complete.



March 31, 2017

Mayor Bob Dixon
Chairman
Local Government Advisory Committee
U.S. Environmental Protection Agency

Date



March 31, 2017

Frances Eargle
Designated Federal Officer
Local Government Advisory Committee
U.S. Environmental Protection Agency

Date

The Meeting Summary reflects what was conveyed during the course of the meeting that is summarized. The Committee is not responsible for any potential inaccuracies that may appear in the meeting summary as a result of information conveyed. Moreover, the Committee advises that additional information sources be consulted in cases where any concern may exist about statistics or any other information within the Meeting Summary.

EPA's Local Government Advisory Committee (LGAC)

MEETING PARTICIPANTS

LGAC Members

Mayor Bob Dixson, Chairman

Councilor Jill Duson, Vice-chair

Mayor Elizabeth Kautz

Mr. Kevin Shafer

Commissioner Carolyn Peterson

Commissioner Robert Cope

Representative Jeff Morris

Mr. Scott Bouchie

Mr. Jeff Witte

Dr. Hector Gonzalez

Mr. Rodney Bartlett

Mayor Mark Stodola

Representative Stephanie Chang

Council Member Dave Bobzien

Commissioner Kitty Barnes

Commissioner Cynthia Koehler

Mayor Steve Williams

Mayor Dawn Zimmer

Ms. Susan Hann

Ms. Samara Swanston

EPA's Local Government Advisory Committee (LGAC)

Mayor Johnny DuPree

Council Member Andy Bierman

Commissioner Merceria Ludgood

EPA

Gina McCarthy, Administrator

Robin Richardson, Associate Principal Administrator, Office of
Congressional and Intergovernmental Relations (OCIR)

Jack Bowles, Director, State and Local, OCIR

Fran Eargle, DFO, LGAC

Demond Matthews, DFO, SCAS

Becky Cook-Shyovitz, OCIR

Charles Lee, OEJ

MEMBERS OF THE PUBLIC

Albert Chula

EPA'S LOCAL GOVERNMENT ADVISORY COMMITTEE'S



6/27/2017

Waters of the United States 2017 Report

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Local
Government
Advisory
Committee



From the LGAC's Charter, defining general goals:

The LGAC is a policy-oriented committee. To assist the agency in ensuring that its regulations, policies, guidance and technical assistance improve the capacity of local governments to carry out these programs, the LGAC provides advice and recommendations to the EPA Administrator.

12



"Water is the lifeblood of all our communities and our economic prosperity, and we want to be good stewards of our Nation's water resource for now and the years to come. This is why having a clear and enforceable 'Waters of the U.S.' rule is so important to us. It also is important that it is financially sustainable and does not overreach, but affirms our goals to make our communities a better place to live and work for all of our citizens."

**Mayor Bob Dixon,
LGAC Chairman**

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"Clean, safe and affordable drinking water is a cornerstone of health, recreation and commerce. EPA has a critical role to create a facilitative, cooperative and collaborative regulatory environment in which local, tribal, state and the federal partners work together to protect one of our nation's most important resources."

**Susan Hann,
LGAC Water Workgroup Chairwoman**

38

EPA's Local Government Advisory Committee's

WATERS OF THE UNITED STATES 2017 REPORT

Executive Summary

I. Introduction and Background

A. EPA's Proposed Waters of the U.S. Rule

B. Committee Charge

C. Historical Context

II. Waters of the U.S. and Local Governments

A. Waters: Our Nation's Wealth and Health

B. Local Governments and Cooperative Federalism

C. Clarity and Predictability

D. Flexibility and Regionalization

E. Enhanced State and Local Government Role

F. Scalia Approach: Challenges and Opportunities

G. Exemptions

H. Permitting Reform

I. Agriculture and Rural Communities

J. Outreach to Local Governments

K. Financial Sustainability

III. Response to Charge: Findings and Recommendations

IV. Conclusion

V. Appendix



Sawtooth Mountains, South of Stanley, ID

- Photo Source: Eric Vance,

EPA

EXECUTIVE SUMMARY

The EPA Administrator issued a compelling charge to the Local Government Advisory Committee that provided an opportunity for local, tribal and state governments to advise the EPA regarding Waters of the United States. The LGAC Waters of the United States Report 2017 provides both policy perspective and specific responses to the charge that can help guide the EPA in moving forward with rulemaking.

Clean, safe and affordable drinking water is vital to the health and prosperity of our communities. As local, state and tribal representatives, the LGAC is committed to this mission in philosophy and action. The report includes several thematic concepts:

- Local, tribal and state governments are partners in the mission to provide and preserve clean, safe and affordable drinking water. We connect with citizens and know our unique communities. Armed with this knowledge, we can act locally in the interest of clean water.
- Clarity and predictability are paramount to success. The lack of clarity and predictability are serious challenges to effectuating any rulemaking process. Clear definitions and criteria are needed for jurisdictional determinations rather than interpretations. Simplifying the jurisdictional determination process is one of the most important steps.
- Flexibility and consideration of regional differences are needed. Several examples of potential regional exemptions are included in the report.
- There are opportunities to enhance state and local roles. Local and state governments want to be engaged and can do so with the appropriate resources through State Assumption of the 404 program or State Programmatic General Permits.
- Regulatory reform should include incentives for best practices including green infrastructure, stormwater management systems, agricultural innovation and other evolving innovations. Exemptions for activities that clearly have a net positive impact need to be considered.
- The permitting process must be more predictable. Jurisdictional determinations of “yes”, “no”, or “maybe” within a definitive time frame such as 60-90 days would be a tremendous improvement. Technology, including mapping, and other innovations, can improve efficiency and effectiveness. Utilizing the 2008 guidance (with definitional changes) can be a good foundation for jurisdictional determinations.
- Source water protection remains a primary concern as this is the foundation of the nation's drinking water system and health of our communities. Ultimately, a community's ratepayers absorb the cost of treating source water, which can become unmanageable as source water quality deteriorates.
- Affordability is a universal theme heard across the nation. Whether it is the cost of source water treatment, compliance costs and penalties, infrastructure development or a myriad of other costs – the ability of citizens to pay must be considered in the equation. If a community cannot develop an affordable rate structure, then citizens do not truly have access to clean, safe drinking water.

In summary, the LGAC Waters of the United States 2017 report delivers a series of recommendations that can assist EPA in evolving the regulatory framework in a way that collaborates with local governments, improves efficiency and effectiveness and advances the goal of clean, safe and affordable drinking water for our communities.

116

117 I. Introduction and Background

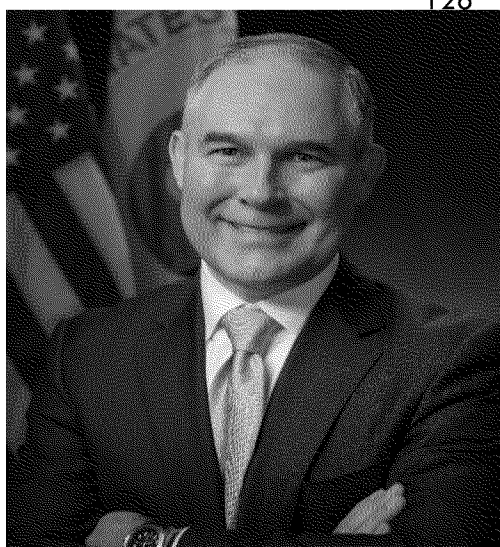
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119 A. EPA'S PROPOSED WATERS OF THE U.S. RULE

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121 On February 28, 2017, the President signed the Executive Order on *Restoring the Rule of Law,*
 122 *Federalism, and Economic Growth* by Reviewing the "Waters of the United States" Rule (issued June
 123 2015).¹ The Executive Order gives direction to the EPA Administrator and the Assistant Secretary of the
 124 Army for Civil Works to review the final Clean Water Rule (CWR) and "publish for notice and comment a
 125 proposed rule rescinding or revising the rule." The E.O. also directs that EPA and the Army "shall consider

126



interpreting the term 'navigable waters' in a manner "consistent with Justice Scalia's opinion in *Rapanos*² which includes relatively permanent waters and wetlands with a continuous surface connection to relatively permanent waters.

As part of EPA's efforts to consult with state and local government officials, EPA's Local Government Advisory Committee (LGAC) is providing its recommendations to the Administrator on revising the definition of "Waters of the United States" (WOTUS) and identifying ways to reduce the regulatory burden on local communities as well as balance that with environmental protection.

On April 10, 2017, EPA Administrator Scott Pruitt sent out a solicitation for input on the forthcoming proposal to rescind and

139 The Honorable Scott Pruitt, EPA Administrator

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seek input from officials as an important step for the EPA in the process prior to proposing regulations that may have implications on federalism.

The LGAC's charge is also an opportunity to hear from state, local and tribal partners from across the country on approaches to consider for a WOTUS rule and other significant issues to be considered in developing and implementing a revised WOTUS rule.

"We greatly look forward to the opportunity to sit at the table with our state and local partners from across the country to discuss the rule and develop an approach to address this significant issue while keeping States at the forefront of our mission."

 The Honorable Scott Pruitt, Administrator, EPA

¹ <https://www.whitehouse.gov/the-pres-office/2017/02/28/presidential-executive-order-restoring-rule-law-federalism-and-economic>

² *Rapanos v. United States*, 547 U.S. 715 (2006) 126 Supreme Court 2208; 165 LEd. 2d 159

The agencies intend to follow an expeditious, two-step process that will provide certainty across the country: 1) an initial rulemaking to rescind the 2015 rule and reinstate the regulatory approach that, except for a brief two-month period prior to the 6th Circuit stay of that rule, has been in the law in place since 1986, and thus maintains the status quo, and 2) promulgation of a revised definition of 'Waters of the U.S.' consistent with direction in the February 28, 2017, E.O.



"Our goal is to help the EPA be a better partner with State administrators and policy-makers to better achieve our shared objectives: protecting the waters of the U.S. and protecting the economic interests of Americans."

State Representative Tom Sloan, Kansas

State Representative Tom Sloan, Kansas

B. COMMITTEE CHARGE

As part of EPA's efforts to consult with state and local government officials, EPA's Local Government Advisory Committee (LGAC) puts forth our findings and recommendations to the Administrator on revising the definition of "Waters of the United States" (WOTUS) and identifying ways to reduce the regulatory burden on local communities as well as balance that with environmental protection.

"EPA Administrator Pruitt gave the LGAC a great opportunity to provide broad input not only on proposed rules, but also on their effective implementation.

'Waters of the US' rule is particularly challenging, but the LGAC embraced the charge, by providing our unique perspective to better help clarify, define and protect our important water resources across America."

Jeff Witte,
Secretary, New Mexico Department of
Agriculture



Jeff Witte, Secretary, New Mexico Department of
Agriculture